

## Remarks

The forgoing amendment has been made after a careful review of the present application, the references of record, and the Office Action dated February 9, 2006. In the Office Action, the examiner withdrew claim 5 from examination pursuant to the applicant's election to prosecute the invention of Group 1, directed to claims 1 through 4. The examiner also rejected claims 1 through 4 under 35 USC 112 because of certain technical objections. Claims 1 and 3 were rejected under 35 USC 102 (b) as being anticipated by Olson and claims 2 and 4 were rejected under 35 USC 103 (a) as being unpatentable over Olson in view of Austin.

In the forgoing amendment the applicant has amended claims 1 and 3 to clarify that the present invention relates to a seed tube that is moveable with respect to a seed chute in a direction perpendicular to the direction of movement of the seed planter. The seed planter is moveable by a tractor through a field and the seed disk drops seeds through the seed chute and into a seed tube that extends down to the underlying earth. The seed tube has a curve along its length to urge the seeds in a rearwardly direction to compensate for the forward motion of the seed planter as it is being pulled by the tractor. The curve of the seed tube which compensates for the forward motion of the seed planter is clearly visible in Fig. 11 which depicts "a fragmentary side elevational view...showing the seed tube attached to the lower end of the seed chute." Figs. 17 and 18 are cross-sectional views taken through lines 17 – 17 of Fig. 11 and therefore show a cross-sectional view taken perpendicular to the direction of movement of the planter. Fig. 17

depicts a seed tube and seed chute fitted with a spacer 160 in accordance with the present invention and Fig. 18 depicts a prior art seed tube and seed chute without such as spacer.

The examiner has rejected claims 1 and 3 under 35 USC 102 (b) as being anticipated by Olson, and the applicant respectfully traverses that rejection. Olson discloses an improved seed tube intended to reduce "seed rattle or seed bounce within the tube," (see column 3 lines 2 – 4). The improved seed tube of Olson has a front wall 164 defining a logarithmic curve, see column 10 lines 44 – 46. The purpose of the logarithmic curve of the front wall 164 of Olson is to minimize seed rattle or seed bounce within the tube and thereby improve spacing between the seeds as they are planted.

The spacer of the present invention is inserted between the upper end of the seed tube and the lower end of the seed chute, along one of the sides thereof to prevent lateral movement of the seed tube with respect to the seed chute. Figs. 17 and 18 clearly show that the spacer 160 is fitted between side surfaces of these two elements, as clarified in claims 1 and 3, and not along a forward or rearward surface. The examiner has cited Fig. 11 of Olson as disclosing a spacer preventing forward and rearward movement of a seed tube with respect to a seed chute. The applicant disagrees with the examiner's statement that Fig. 11 of Olson shows such a spacer but instead the applicant asserts that Fig. 11 merely shows the attachment of the seed tube to the seed chute. Regardless of the merits of the examiner's rejection, the applicant has amended claims 1 and 3 to clarify that the spacer prevents movement perpendicular to the direction of travel of the planter.

As explained on page 13 lines 9 through 14 of the present specification, the inner dimensions of the short side members 148, 146 of the seed tube 48 are perhaps three-eighths of an inch larger than the outer dimensions of the short sides 126, 128 of the seed chute 70 such that when the parts are assembled in a row unit 30, the upper ends of the side members 140 are moveable toward and away from the complementary long side member 122 of the seed chute 70 during the operation of the planter 10.” As explained beginning on page 17 line 18 and extending through the end of page 18, the spacer 160 of the present invention fits between the seed chute and the seed tube and prevents lateral movement, in a direction perpendicular to the movement of the planter as it is being pulled across a field. The present invention, therefore, is directed to minimizing seed bounce or seed rattle that occurs between the side walls of the seed tube whereas Olson is directed to minimizing seed bounce or seed rattle occurring as a result of contact against the curved forward wall 164 of the seed tube. Olson makes no reference to lateral movement of the seed tube with respect to the seed chute nor does Olson appreciate that seed bounce can occur between the side walls and that bounce can be minimized by reducing the lateral movement between the two parts. In view of the forgoing, the applicant submits that it is clear that amended claims 1 and 3 clearly define over Olson and are allowable. Claims 2 and 4 are dependent upon claims 1 and 3 respectively and are allowable for the same reason as their parents..

With the forgoing amendment, the applicant submits that the present application is now in condition for allowance, and favorable reconsideration and allowance is requested.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Robert L. Marsh", written in a cursive style.

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